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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/213,096	12/17/1998	MOHAN V. KALKUNTE	82771.P335	7422

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EXAMINER

DUONG, FRANK

ART UNIT

PAPER NUMBER

2664

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Please find below and/or attached an Office communication concerning this application or proceeding.

CB

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/213,096	KALKUNTE ET AL.
	Examiner	Art Unit
	Frank Duong	2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 09 May 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-8,21-23 and 25-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8,21-23 and 25-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

1. This Office Action is a response to the communication dated 05/09/2002. Claims 1-8, 21-23 and 25-34 are pending in the application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-8 and 25-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Bellenger (USP 5,802,054).

Regarding **claims 1 and 8**, in according to Bellenger reference entirely (*especially Figs. 3-6 and the description at col. 3, line 1 to col. 4, line 67 and col. 8, line 3 to col. 16, line 10*), Bellenger discloses a method for improving receive performance in a data network (Fig. 3), the method comprising:

receiving up to a plurality of indications denoting the start of frame transmission on a corresponding plurality of communication links (201-1 to 201-X) (*Fig. 4, step 300; col. 10, lines 35-36*);

identifying that at least one of the received identifications denote the start of a flow (*Fig. 4, step 303; col. 10, lines 46-48 and col. 9, lines 4-8*); and

dedicating a receive buffer from a plurality of receive buffers (207) to receive all frames associated with the identified flow (see *col. 15, lines 11-14*).

Regarding **claim 2**, in addition to features in base claim 1 (see *rationales pertaining to the rejection of base claim 1 discussed above*), the claim further calls for wherein identifying the start of flow includes analyzing information embedded within each of the received frames to determine source and destination information association with said frames (see *col. 3, lines 7-20; Fig. 5, col. 10, line 65 to col. 11, line 40; and Fig. 6, col. 15, line 1-35*).

Regarding **claim 3**, in addition to features in base claim 1 (see *rationales pertaining to the rejection of base claim 1 discussed above*), the claim further calls for determining whether the identified flow required preservation of transmission order (see *col. 3, lines 48-61*).

Regarding **claim 4**, in addition to features in base claim 3 (see *rationales pertaining to the rejection of base claim 3 discussed above*), the claim further calls for promoting frames of the received flow in the order received, unless it is determined flow requires preservation of transmission order (see *col. 3, lines 61-65*).

Regarding **claim 5**, in addition to features in base claim 4 (see *rationales pertaining the rejection of base claim 4 discussed above*), the claim further calls for assigning a pointer value (tag) to each frame of the identified flow corresponding to commencement of transmission, creating a list of pointer values corresponding to transmission order if it is determined that the identified flow requires preservation of transmission order (see col. 3, lines 7-65).

Regarding **claim 6**, in addition to features in base claim 1 (see *rationales pertaining the rejection of base claim 1 discussed above*), the claim further calls for promoting frames of the received flow in the order received (see col. 3, lines 61-65).

Regarding **claim 7**, in addition to features in base claim 6 (see *rationales pertaining the rejection of base claim 6 discussed above*), the claim further calls for determining whether the identified flow requires preservation of transmission order by analyzing protocol identification information embedded within the received frames (see col. 3, lines 7-20; Fig. 5, col. 10, line 65 to col. 11, line 40; and Fig. 6, col. 15, line 1-35).

Regarding **claims 25 and 31**, in according to Bellenger reference entirety (especially Figs. 3-6 and the description at col. 3, line 1 to col. 4, line 67 and col. 8, line 3 to col. 16, line 10), Bellenger discloses a method comprising:

receiving at least one indication denoting the start of frame transmission on a corresponding plurality of communication links (201-1 to 201-X) (Fig. 4, step 300; col. 10, lines 35-36);

identifying a received identification denotes commencement of a flow (Fig. 4, step 303; col. 10, lines 46-48 and col. 9, lines 4-8);

dedicating a buffer from a plurality of buffers (207) to receive all frames associated with the identified flow (see col. 15, lines 11-14);

*(note at col. 3, lines 41-65, Bellenger discloses the node route logic and its function that implicitly and inherently reads on the next two claimed steps)*

determining whether the identified flow requires preservation of frame transmission order; and

relying on the received indications associated with each frame to preserve a state of frame order transmission.

Regarding **claim 26**, in addition to features in base claim 25 (see *rationales pertaining the rejection of base claim 25 discussed above*), the claim further calls for wherein identifying the start of flow includes analyzing information embedded within each of the received frames to determine source and destination information associated with said frames (see col. 3, lines 7-20; Fig. 5, col. 10, line 65 to col. 11, line 40; and Fig. 6, col. 15, line 1-35).

Regarding **claim 27**, in addition to features in base claim 25 (see *rationales pertaining the rejection of base claim 25 discussed above*), the claim further calls for wherein the relying on the received indications comprises promoting frames of the received frames to determine source and destination information associated with said frames (see col. 3, lines 61-65).

Regarding **claim 28**, in addition to features in base claim 25 (see *rationales pertaining the rejection of base claim 25 discussed above*), the claim further calls for wherein the relying on the received indications comprises assigning a pointer value

(tag) to each frame of the identified flow corresponding to commencement of transmission, creating a list of pointer values corresponding to transmission order if it is determined that the identified flow requires preservation of frame transmission order (see col. 3, lines 7-65).

Regarding **claims 29**, in addition to features in base claim 28 (see *rationales pertaining the rejection of base claim 28 discussed above*), the claim further calls for promoting the received frames from the dedicated buffer in the order received, without regard to frame transmission order, unless it is determined that the identified flow requires preservation of frame transmission order (see col. 3, lines 7-65; Fig. 5, col. 10, line 65 to col. 11, line 40; and Fig. 6, col. 15, line 1-35).

Regarding **claims 30**, in addition to features in base claim 25 (see *rationales pertaining the rejection of base claim 25 discussed above*), the claim further calls for determining whether the identified flow requires preservation of frame transmission order by analyzing protocol identification information embedded within the received frames (see col. 3, lines 7-20; Fig. 5, col. 10, line 65 to col. 11, line 40; and Fig. 6, col. 15, line 1-35).

Regarding **claim 32**, in accordance to Bellenger reference entirety (especially Figs. 3-6 and the description at col. 3, line 1 to col. 4, line 67 and col. 8, line 3 to col. 16, line 10), Bellenger shows a network device (Fig. 3) comprising:

means for receiving an indication to denote commencement of a flow of frame transmission (see Fig. 3, element 215 and the description at col. 3, lines 7-24 or Fig. 4, step 300; col. 10, lines 35-36);

means for indicating at least one receive buffer to receive all frames associated with the flow (see *Fig. 3, elements 212, 211 and 207 and the description at col. 15, lines 11-14*).

Regarding **claim 33**, in addition to features in base claim 32 (see *rationales pertaining the rejection of base claim 32 discussed above*), the claim further calls for means for promoting frames of the received flow in the order received (see *Fig. 3, elements 212, 211 and 207 and the description at col. 3, lines 61-65*).

Regarding **claim 34**, in addition to features in base claim 32 (see *rationales pertaining the rejection of base claim 32 discussed above*), the claim further calls for means for assigning a pointer value (tag) to each frame of the identified flow corresponding to commencement of transmission, and creating a list of pointer values corresponding to transmission order if it is determined that the identified flow requires preservation of transmission order (see *Fig. 3, elements 215 and the description at col. 3, lines 7-65*).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 21-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Sellenger.

Regarding claims 21-23, the claims calls for a computer program of the claimed method of claims 1 and 4-5, respectively (see *rationales pertaining the rejections of claims 1 and 4-5 discussed above*). It is well known to translate the Sellenger's method, discussed above pertaining claims 1 and 4-5, to the claimed computer program in a manner set forth as claimed.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schwartz et al. (USP 6,185,214).

Kalkunte et al. (USP 6,031,821).

Frazier et al. (USP 6,029,202).

Simmons et al. (6,167,054).

Mueller et al. (USP 5,430,710).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is (703) 308-5428. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (703) 305-4366. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Frank Duong  
July 29, 2002



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